REMARKS

By this amendment, Claims 1, 3 and 5-9 have been amended. Claims 1-3 and 5-17 remain in the application. This application has been carefully considered in connection with the Examiner's Action. Reconsideration, withdrawal of the final action, and allowance of the application, as amended, is requested.

Rejection under 35 U.S.C. §101

Claim 5 was rejected to under 35 U.S.C. §101 as being directed to nonstatutory subject matter. With respect to claim 5, as presented herein, claim 5 has been amended, in part, to recite a storage medium having stored thereon a packetized elementary data stream for execution by a reproduction device, after being received in an input unit of the reproduction device, for causing the reproduction device to reproduce main data of the packetized elementary data stream. Accordingly, the claim is no longer believed directed to non-statutory subject matter. Withdrawal of the rejection is requested.

Rejection under 35 U.S.C. §103

Claims 1-3 and 5-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kim (US 7340762; hereinafter "**Kim**") in view of Wu et al. (US6907070; hereinafter "**Wu**"). With respect to claim 1, Applicant respectfully traverses this rejection on the grounds that the **Kim** and **Wu** references are defective in establishing a prima facie case of obviousness.

Independent claim 1 recites, inter alia, "forming ... an *embedded data descriptor* configured to *identify* content included in the *embedded data*; and providing ... the *embedded data descriptor* within the elementary data stream *outside [i.e., separate from]* (i) the *main data* including the embedded data *and* (ii) the *main data descriptor* of the elementary data stream, wherein the *embedded data content* comprises

enhancement data configured *to enhance* the main data available in the elementary data stream during a reproduction of the main data by a *reproduction unit* in response to … being *configured to* recognize and interpret the *embedded data descriptor*, else the reproduction unit *ignores* the *embedded data descriptor*." Support for claim 1 (as well as for claims 3, 5-9) can be found in the specification at least on page 4, lines 10-12; and FIG. 2.

Applicant submits that neither **Kim** nor **Wu** discloses at least the aforementioned feature of independent claim 1. In particular, it is submitted that the citation to **Wu** does not remedy the conceded deficiency in the citation to **Kim**. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of **Kim** and **Wu** is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The Office Action concedes that, with respect to the citation of **Kim**, "[w]hile **Kim** fails to explicitly show the *main data descriptor* outside the embedded data, **Kim** does disclose the main data can be embedded in other descriptors" and that "[s]ince the *main data* can be embedded in other descriptors, the *main data* is outside the other embedded data" (emphasis added) (See Office Action, page 3, lines 10-14). The Office Action further concedes that "… **Kim** fails to disclose the embedded data containing enhancement data as claimed" (See Office Action, page 3, lines 14-15). However, it is noted that claim 1 now more clearly recites "*embedded data descriptor* configured to *identify* content included in the *embedded data*; and providing … the *embedded data descriptor* within the elementary data stream *outside [i.e., separate from]* (i) the *main data* including the embedded data *and* (ii) the *main data descriptor* of the elementary data stream, wherein the *embedded data content* comprises *enhancement data* configured *to enhance* the main data available in the elementary data stream during a reproduction of the main data by a *reproduction unit* in response to … being *configured*

to recognize and interpret the *embedded data descriptor*, else the reproduction unit *ignores* the *embedded data descriptor.*" Nonetheless, the Office Action rejects independent claim 1, contending that **Wu** provides this necessary disclosure (See Office Action, page 3, lines 15-18). This contention is respectfully traversed.

Wu relates to a motion-compensated video encoding scheme that employs progressive fine-granularity layered coding to encode macroblocks of video data inot frames having multiple layers, including a base layer of comparatively low quality video and multiple enhancement layers of increasingly higher quality video. Some of the enhancement layers are predicted from different quality layers in reference frames (See Wu, abstract). In the method of Wu, "DCT [*discrete cosine transform*] residues between the original/predicted DCT coefficients and dequantized DCT coefficients of the base layer *form* the *enhancement bit-stream* using the *bit plane technique*" (*emphasis added*). In addition, "since its motion prediction is always based on the lowest quality base layer, the coding efficiency of the FGS [f*ine-granularity scalable*] scheme is not as good as, and sometimes much worse than, the traditional SNR scalable scheme" (See Wu, column 3, lines 54-65). Thus, **Wu** does not provide a disclosure that remedies the aforementioned, conceded deficiency in the citation to **Kim**. Thus, a *prima facie* case of obviousness has clearly not been met, and the rejection under 35 U.S.C. §103 should be withdrawn.

Accordingly, claim 1 is allowable and an early formal notice thereof is requested. Claim 2 depends from and further limits independent claim 1 and therefore is allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Claims 3 and 5-9 contain limitations similar to those of claim 1. Accordingly, for similar reasons as stated with respect to overcoming the rejection of claim 1, claims 3

and 5-9 are believed allowable and an early formal notice thereof is requested. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Claims 10, 12, 14 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kim (US 7340762; hereinafter "**Kim**") in view of Wu et al. (US6907070; hereinafter "**Wu**") in further view of Liljeryd et al. (US6708145; hereinafter "**Lijeryd**"). Applicant respectfully traverses this rejection for at least the following reasons. Claim 10 depends from and further limits allowable independent claim 1 and therefore is allowable as well. Claim 12 depends from and further limits allowable independent claim 3 and therefore is allowable as well. Claim 14 depends from and further limits allowable independent claim 6 and therefore is allowable as well. Claim 16 depends from and further limits allowable independent claim 7 and therefore is allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Claims 11, 13, 15 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kim (US 7340762; hereinafter "**Kim**") in view of Wu et al. (US6907070; hereinafter "**Wu**") in further view of Terauchi et al. (US5592398; hereinafter "**Terauchi**"). Applicant respectfully traverses this rejection for at least the following reasons. Claim 11 depends from and further limits allowable independent claim 1 and therefore is allowable as well. Claim 13 depends from and further limits allowable independent claim 3 and therefore is allowable as well. Claim 15 depends from and further limits allowable independent claim 6 and therefore is allowable as well. Claim 17 depends from and further limits allowable independent claim 7 and therefore is allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

EXPEDITED PROCEDURE
PATENT
Docket No. NL021091US1
Customer No. 24737

Appl. No. 10/531,929
Response to Final Action of February 26, 2010

Conclusion

Except as indicated herein, the claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. Applicants furthermore reserve their right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or a continuation application.

It is clear from all of the foregoing that independent claims 1, 3 and 5-9 are in condition for allowance. Claims 2 and 10-11 depend from and further limit independent claim 1 and therefore are allowable as well. Claims 12-13 depend from and further limit independent claim 3 and therefore are allowable as well. Claims 14-15 depend from and further limit independent claim 6 and therefore are allowable as well. Claims 16-17 depend from and further limit independent claim 7 and therefore are allowable as well.

The amendments herein are fully supported by the original specification and drawings; therefore, no new matter is introduced. Withdrawal of the final action and issuance of an early formal notice of allowance of claims 1-3 and 5-17 is requested.

Respectfully submitted,

By: /Michael J. Balconi-Lamica/

Michael J. Balconi-Lamica
Registration No. 34,291
for Edward Goodman, Reg. No. 28,613

Dated:_____May 10, 2010_____
Philips Intellectual Property & Standards
345 Scarborough Road
Briarcliff Manor, New York 10510
Telephone: 914-333-9611
Facsimile: 914-332-0615
File: NL021091US1

a-32658.362